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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,738	02/09/2004	Ming-Jeng Shue	087916-000000US	1536

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EXAMINER	
ROY, ANURADHA	

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/775,738	SHUE ET AL.	
	Examiner	Art Unit	
	Anuradha Roy	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE =3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 June 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 14-17* is/are pending in the application.

4a) Of the above claim(s) *6-10,12 and 14-16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,11 and 17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 11, & 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Sagstetter et al (US Patent No. 5,219,333) in view of Haber et al (US Patent No. 4,947,863).

Regarding claim 1, Sagstetter et al. discloses a cannula retractable medical collection device adapted to be used with a collection vial for collecting a blood sample therein, the collection vial having a front vial end and a pierceable stopper disposed on and covering the front vial end, said device comprising:

> a barrel (12) having front and rear open ends (82 & 34) opposite to each other in a longitudinal direction, and a surrounding barrel wall which interconnects and which is interposed between said front and rear open ends, said surrounding barrel wall including a front smaller-diameter wall portion (30) and a rear larger-diameter wall portion (proximal end of 12) which are opposite to each other in the longitudinal direction and which are proximate to said front and rear open ends, respectively, said surrounding barrel wall having an inner barrel wall surface

which surrounds an axis in the longitudinal direction and which confines a passage communicated with said front and rear open ends, and an outer barrel wall surface opposite to said inner barrel wall surface in radial directions relative to the axis (Figure 1);

a cannula mount (14) inserted into said passage from said rear open end, and slidable relative to said rear larger-diameter wall portion along the axis between front and rear positions to be proximate to said smaller-diameter wall portion and said rear open end, respectively (Figure 4), said cannula mount including a shell member (exterior wall of 14) which has a skirt portion (22) surrounding the axis and confining an accommodation chamber (interior of 14) therein that is adapted for receiving the front vial end of the collection vial (Figure 4), and an interconnecting portion (16) opposite to said skirt portion in the longitudinal direction, said interconnecting portion defining an axial passageway which extends therethrough to be communicated with said accommodation chamber (Figure 3);

a double-ended needle cannula (94 & 98) including front and rear needle segments which are opposite to each other in the longitudinal direction, and which have front and rear needle taper points, respectively, said rear needle segment extending into said accommodation chamber through said axial passageway along the axis so as to enable said rear needle taper point to be adapted to prick the pierceable stopper when the front vial end of the collection vial is received in said accommodation chamber (Figure 6);

a needle hub (92 & 100) disposed to secure said front needle segment to said interconnecting portion such that said front needle segment is in fluid communication with said rear needle segment, and such that when said cannula mount is in the front position, said front needle segment is placed in a position of use, where said front needle segment extends outwardly of said front open end for ready use, and when said cannula mount is in the rear position, said front needle segment is placed in a disposal position, where said front needle segment retreats inwardly and rearwardly of said front open end (Figure 6);

a releasably retaining member (36, 38, 40, & 46) which is disposed to arrest axial movement of said cannula mount relative to said barrel when said cannula mount is in the front position, and which includes a retaining hole (38) formed in said outer barrel wall surface of said larger-diameter wall portion, and extending in a radial direction through said inner barrel wall surface, and an engaging peg (46) disposed to extend in the radial direction, and engageable in said retaining hole to establish an interengagement between said larger-diameter wall portion and said skirt portion such that movement of said cannula mount at the front position is arrested (Figure 2 & 3);

and an actuator (42) operable externally and disposed to enable said engaging peg to be disengaged from said retaining hole so as to permit the axial movement of said cannula mount to the rear position (Column 4, lines 63-68).

However, Sagstetter et al. does not disclose a device with a plurality of

deformable protrusions which are disposed on said inner barrel wall surface of said larger-diameter wall portion proximate to said rear open end and which extend radially and inwardly so as to be adapted to hold the collection vial by virtue of frictional engagement along the axis. Haber et al., however, teaches of a device with a plurality of deformable protrusions (24 & Column 4, lines 7-13), which are disposed on said inner barrel wall surface of said larger-diameter wall portion proximate to said rear open end and which extend radially and inwardly so as to be adapted to hold the collection vial by virtue of frictional engagement along the axis (Figures 3 & 5-8). It would have been obvious to one having ordinary skill in the art at the time the invention in view of Haber et al. to incorporate a plurality of deformable protrusions with Sagstetter et al. in order to provide a decelerating means for the inner cylinder.

In regards to claim 2, Sagstetter et al. discloses a cannula retractable medical collection device, wherein said larger-diameter wall portion has an elongated guideway (36) extending from said outer barrel wall surface through said inner barrel wall surface in the radial direction, and elongated from said retaining hole rearwardly and in the longitudinal direction to terminate at a rear retaining end, said engaging peg being disposed on and extending radially from said skirt portion to terminate at a shifted end which extends radially and outwardly of said outer barrel wall surface, and being slidable along said elongated guideway from said retaining hole to said rear retaining end when said cannula mount slides from the front position to the rear position (Figure 7 & Column 4, lines 63-68).

With regard to claim 3, Sagstetter et al. discloses a cannula retractable medical collection device, wherein said actuator (42) is formed integrally with said shifted end of said engaging peg (46), and is disposed outwardly of and is slidable relative to said outer barrel wall surface (Column 4, line 46 & 63-68).

Regarding claim 4, Sagstetter et al. discloses a cannula retractable medical collection device, wherein said elongated guideway has front and rear constricted regions (74, 76 & 48, 50, respectively) which are formed immediately behind said retaining hole and immediately in front of said rear retaining end, respectively, such that once said engaging peg is forced through one of said front and rear constricted regions, movement of said engaging peg is arrested by virtue of a snap-fit in a corresponding one of said retaining hole and said rear retaining end so as to place said cannula mount in a corresponding one of the front and rear positions.

With regard to claim 11, Sagstetter et al. discloses a cannula retractable medical collection device, wherein said front and rear needle segments (94 & 98) are formed integrally with each other (Figure 5).

Regarding claim 17, Sagstetter et al. discloses a cannula retractable medical collection device, wherein said cannula mount is formed integrally with said needle hub (Figure 6), said inner barrel wall surface of said smaller-diameter wall portion being converged gradually from said larger-diameter wall portion towards said front open end (Figure 1).

Additional Claim Rejections - 35 USC § 103

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sagstetter et al. in view of Haber et al (US Patent No. 4,947,863) and further in view of Bonaldo (US Patent No. 5,070,885).

In regards to claim 5, Sagstetter et al. in view of Haber et al. discloses a cannula retractable medical collection device with the aforementioned elements. However, Sagstetter et al. in view of Haber et al. does not disclose a barrel wherein larger-diameter wall portion further has a split which extends from rear retaining end of elongated guideway to rear open end. Bonaldo, however discloses a barrel (Figure 1) wherein larger-diameter wall portion further has a split (34B) which extends from rear retaining end (44) of elongated guideway (34A) to rear open end. It would have been obvious to one having ordinary skill in the art at the time the invention in view of Bonaldo to include a split, which extends from the rear retaining end with Sagstetter et al. in view of Haber et al. in order for the engagement portion and tab to easily pass into the rear retaining opening.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 11, &17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anuradha Roy whose telephone number is 571-272-6169 and whose email address is anuradha.roy@uspto.gov. The examiner can

normally be reached between 9:00am and 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

~AR

MAX F. HINDENBURG
SUPERVISORY PATENT EXAMINER
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